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HUMAN RIGHTS COMMITTEE
Sixty-sixth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the Human Rights Committee

Cambodia

1. The Committee considered the initial report of Cambodia (CCPR/C/81/Add.12) at its 1758th, 1759th and 1760th meetings (CCPR/C/SR.1758, 1759 and 1760) held on 14th and 15th of July 1999 and adopted the following concluding observations at its 1770th and 1771st meetings (CCPR/C/SR 1770-1771) held on 22 July 1999.

A. Introduction

2. The Committee welcomes the State party's comprehensive and detailed initial report which pointed to many difficulties. It appreciates the information provided by the delegation in its dialogue with the Committee.

B. Positive aspects

3. The Committee welcomes the fact that the State party has begun the process of reforming and training the judiciary which was destroyed in the period of Khmer Rouge rule.

4. The Committee also welcomes the fact that the Constitution calls for recognition of and respect for human rights as stipulated in international instruments, including the Covenant.

C. Factors and difficulties affecting implementation of the Covenant

5. The State party has undergone a long period of conflict and violence which resulted in the killing of a high proportion of its population, the forced exile of many others, the destruction of the main institutions of the State, including the judiciary, and the undermining of its economic and social life. There remains an unacceptable level of violence and use of weapons.

D. Principal areas of concern and recommendations

6. The Committee is concerned that Khmer Rouge leaders have not yet been brought to trial.

The State party should take steps without delay to ensure that the alleged perpetrators of gross human rights violations and crimes against humanity are brought to trial before properly constituted independent courts and in accordance with generally accepted international standards.

7. The Committee is concerned that under article 31 of the Constitution equality rights apply to "Khmer citizens" and that other provisions protect the rights of "Khmer citizens".

The State party should ensure that Covenant rights are enjoyed without distinction.

8. a) The Committee is concerned that the justice system remains weak due to the killing or expulsion of professionally trained lawyers during the conflict, the lack of training and resources for the new judiciary and their susceptibility to bribery and political pressure. The Committee is also concerned that the Supreme Council of the Magistracy is not independent of government influence, and that it has not yet been able to deal with the many allegations of judicial incompetence and unethical behaviour.
b) The Committee is further concerned that the judiciary seeks the opinion of the Ministry of Justice in regard to the interpretation of laws and that the Ministry issues circulars which are binding on judges.

The State party should take urgent measures to strengthen the judiciary and to guarantee its independence, and to ensure that all allegations of corruption or undue pressure on the judiciary are dealt with promptly.

9. The Committee is seriously concerned that the effect of Article 51 of the Cambodian Common Statute of Civil Servants, in requiring permission from the relevant Minister (or from the Council of Ministers) before a criminal prosecution against a civil servant (or senior civil servant) may be initiated, tends to lead to impunity by preventing the investigation and prosecution of public officials, including law enforcement officers responsible for human rights violations. It notes the statement by the delegation that this law

is not applied to members of the security forces and that its repeal has been proposed.

The State party should repeal Article 51 of the Common Statute of Civil Servants without delay.

10. The Committee is concerned that the State party has not yet established an independent and legally constituted body with power to oversee and report on the implementation of human rights obligations, and to investigate complaints of human rights violations, and that the National Human Rights Committee referred to in para 27 of the report has neither the resources nor the independence to carry out this function. Furthermore, while the State party concedes that its judiciary is lacking in resources and is plagued by corruption, it puts undue reliance on the courts to investigate human rights violations by public officials.

A permanent and independent human rights monitoring body should be established by legislation, with adequate powers and resources to receive and investigate allegations of torture or other abuses of power by public officials.

11. The Committee is alarmed at reports of killings by the security forces, other disappearances and deaths in custody, and at the failure of the State party to investigate fully all these allegations and to bring the perpetrators to justice. It is particularly concerned at the lack of action in regard to the many deaths and disappearances that occurred during 1997 and during the 1998 elections, and in regard to the delay in completing the investigation of the grenade attack on demonstrators on 30 March 1997.

Action should be taken without delay to prevent the further occurrence of such incidents, to investigate all such allegations, and to bring those alleged to have violated Covenant rights to trial.

12. The Committee is concerned at statements in the report that the laws relating to arrest and preventive and pre-trial detention are not strictly observed, that unlawful and arbitrary detention is common and that many persons are kept in pre-trial detention longer than the period of six months permitted under Cambodian law. It is especially concerned that the provisions of the Transitional Criminal Code (arts 10-22), under which the court must order immediate release when a person is arrested without warrant, are not always complied with by the police authorities. It is also concerned about reports of obstruction of the judicial process by the police.

The State party should take firm measures, including training of the judiciary and the police in human rights, to ensure strict compliance with its Criminal Code and with article 9 of the Covenant.

13. The Committee is seriously concerned at statements in the report relating to the frequency of physical and mental coercion of accused persons and the beating of detainees during interrogation, and that there have been few investigations or prosecutions in respect of allegations of torture and ill treatment. The Committee is also concerned at reports that women prisoners are vulnerable to rape by prison guards and that despite the prohibition of the use of shackles and chains in prisons, there continue to be reports of their use.

The State party should act without delay to prevent these abuses, which violate articles 7 (1) and 10 (1) of the Covenant, to investigate alleged violations and bring the perpetrators to justice; it should ensure that confessions obtained by force are excluded from evidence, that women prisoners are guarded only by female warders, and that there are effective procedures for making and investigating complaints by prisoners and detainees.

14. The Committee is concerned at reports of serious overcrowding in prisons and at the level of ill-health among prisoners and the lack of health care.

The State party should take urgent steps to ensure that article 10 of the Covenant is fully implemented and that basic minimum standards are met in all prisons and places of detention.

15. The Committee is concerned at reports that children are detained in juvenile detention facilities for considerable periods without charge, and without access to a lawyer or to court. It is particularly concerned that these children are subjected to beatings and to ill-treatment.

The State party should ensure strict observance of articles 7,9 and 10 and should take appropriate measures to ensure protection of children in accordance with article 24 of the Covenant.

16. The Committee is seriously concerned at the reports of extensive trafficking of men and women for labour, and of women and children for purposes of sexual exploitation and forced prostitution. It is particularly concerned that the laws which prohibit these abuses are not enforced.

The State party should take positive steps to eradicate these practices, to protect the victims, to prosecute those responsible and to enforce anti-corruption measures in respect of law enforcement officers.

17. The Committee is concerned that prevalent attitudes concerning the subordinate role of women in the family and in society are a substantial obstacle to the equal enjoyment of rights by women, and impede their education and opportunities for employment and full

participation in political life. The Committee is also concerned that parents decide upon marriage, that children are forced into marriage, that rape in marriage is not an offence and that the authorities do not provide support to women who complain of domestic violence.

The State party, in conformity with its obligations under the Covenant, should ensure greater access to education by women and girls, equal employment opportunities for women, and the full and equal participation of women in political life. It should also take steps to ensure respect for laws prohibiting marriage without full and free consent, and introduce measures to enable women to seek effective protection of the law in case of domestic violence.

18. The Committee is concerned at reports concerning violent attacks on and harassment of journalists and suspension of publications. It is also concerned at the Press Laws which impose license requirements and prohibit publications which, *inter alia*, cause harm to political stability or which insult national institutions. These broadly defined offences are incompatible with the restrictions permissible under paragraph 3 of article 19 of the Covenant.

The State party should take action to protect journalists and to investigate acts of violence and bring the perpetrators to justice. The Press Laws should be brought into compliance with article 19 of the Coenant.

19. The Committee regrets the lack of specific information concerning the indigenous peoples and especially hill tribes, and about the measures taken to ensure that their rights under article 27 to enjoy their cultural traditions, including their agricultural activities, are respected.

Immediate measures should be taken to ensure that the rights of members of indigenous communities are respected; further information on these issues should be included in the State party's second periodic report.

20. The Committee requests that the State party submit its second periodic report by ..... It recommends that the State party disseminate these concluding observations in the Cambodian language widely throughout the community.